

REMARKS

Upon entry of the forgoing amendments, claims 2-9, 11, 13-20, 22, 24-31, 33, 36-43, and 45 are pending in this application with claims 2, 11, 13, 22, 24, 33, 36, and 45 being independent claims. No claim is allowed.

Claims 2, 11, 13, 22, 24, 33, 36, and 45 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention.

Claims 1, 10, 12, 21, 23, 32, 34, 35, and 44 have been newly canceled, without prejudice.

The 35 U.S.C. § 102 Rejection

Claims 1, 12, 23, 34, and 35 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by *Prabandham et al.* (US 6,701,438 B1). This rejection is respectfully traversed.

Generally, the Office Action states that *Prabandham* discloses all of the claim elements and limitations. However with this paper, the rejected claims have been canceled thus rendering the rejection moot.

The 35 U.S.C. § 103 Rejection

According to M.P.E.P. § 2143,

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.

Claims 2-11, 13-22, 24-33, and 36-45 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Prabandham* in view of *Primeaux et al.* (US 6,334,121 B1). This rejection is respectfully traversed.

Generally, the Office Action states that *Prabandham* discloses or suggests most of the claim elements and limitations and that *Primeaux* discloses or suggests the rest. However, the cited prior art is not suited to preventing denial of service attacks. The cited prior art is limited to

attempting to deny access to a first network to perform unauthorized commands. The premise under the denial of service attack is that access has already been obtained to the first network and that conventionally authorized commands are used in such quantity or frequency that they cause damage to a second network. (See page 7, line 17 through page 8, line 6.) The difference may be subtle, but it is significant and is at least in part why the specification concludes that currently available solutions, such as the cited prior art individually or in combination, are very limited. (See page 8, line 18 through page 9, line 5.)

It is important to note that the cited prior art never uses the claimed terms of "denial of service attacks", "request count", or "request frequency". This indicates that the prior art is not aware of the special circumstances of DoS attacks. Thus the rejection is based on pure speculation of how the cited prior art might be used or modified to deal with such DoS attacks. This is archetypical hindsight reconstruction which is not allowed.

Even if it were to be allowed, the proposed combination fails. *Primeaux* discloses that his invention monitors only as few as "5 commands" and any "critical commands" (Col. 4, lines 8-27). One looking to launch a DoS attack can merely fake normal activity for the first 5 or more commands and then strike with commands that may not be individually abnormal or critical. Broad interpretations of the Summary of the Invention of *Primeaux* are improper with respect to how much activity is tracked and what constitutes a destructive command. Destructive is not defined in terms of quantity or frequency. Further, the focus of destruction is the first network and not another network that would be the target of a DoS attack. Also, vague references to thresholds does not readily indicate quantity or frequency of anything specific. The Detailed Description of *Primeaux* does not support the stretch required by the rejection to allegedly render obvious the presently claimed invention. The rejection should be withdrawn.

In terms of motivation to combine, the Office Action fails to note it as such but quotes *Prabandham* column 5, lines 16-20. However, the quotation is given by *Prabandham* to support his own invention alone and not a combination with anything else. If *Prabandham* can achieve

the quoted result on his own, then there is no motivation to combine the references as proposed. Without proper motivation, the rejection should be withdrawn.

In view of the above, it is respectfully asserted that the claims are now in condition for allowance.

Request for Allowance

In view of the foregoing, reconsideration and an early allowance of this application are earnestly solicited.

If any matters remain which could be resolved in a telephone interview between the Examiner and the undersigned, the Examiner is invited to call the undersigned to expedite resolution of any such matters.

Respectfully submitted,
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